

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:01-cr-0041-TWP-DKL-2
)	1:02-cr-0042-TWP-DKL-1
DEREK D. WELLS,)	1:02-cr-0044-TWP-DKL-2
)	
Defendant.)	

REPORT AND RECOMMENDATION

On September 26, 2018, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on August 30, 2018. Defendant Wells appeared in person with his appointed counsel Dominic Martin. The government appeared by MaryAnn Mindrum, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Tim Hardy.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Wells of his rights and provided him with a copy of the petition. Defendant Wells waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Wells admitted violations 2, and 3.
[Docket Nos. 60, 45, and 49.]
3. The allegation to which Defendant admitted, as fully set forth in the petition, are:

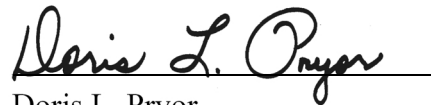
<u>Violation Number</u>	<u>Nature of Noncompliance</u>
2	<p>“The defendant must not unlawfully possess a controlled substance. You must refrain from any unlawful use of a controlled substance.”</p> <p>On August 14, 2018, Derek Wells submitted a urine specimen which tested positive for marijuana. On August 28, 2018, he admitted to the probation officer he used marijuana on or about August 14, 2018.</p> <p>As previously reported to the Court, on June 12, and July 10, 2018, Derek Wells submitted urine specimens which tested positive for marijuana. He admitted using marijuana.</p>
3	<p>“You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment.”</p> <p>On August 13, 2018, Derek Wells failed to submit to drug testing at a contracted facility.</p> <p>As previously reported to the Court, from June 28, 2018, through July 9, 2018, Derek Wells failed to submit to drug testing at a contracted facility (VOA). He was a "No Show" each day. On July 23, 2018, Derek Wells failed to show for his initial appointment to begin outpatient substance abuse treatment at a contracted facility (VOA).</p>
4.	The Government moved to dismiss violation 1 and the same granted.
5.	<p>The parties stipulated that:</p> <ul style="list-style-type: none"> (a) The highest grade of violation is a Grade C violation. (b) Defendant’s criminal history category is I. (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 3 to 9 months’ imprisonment.
6.	The parties jointly recommended a sentence of 5 months no supervised release to follow.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that

his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of five (5) months with no supervised release to follow. The Defendant will remain on the current conditions of supervised release pending the District Judge's action on this Report and Recommendation. The Defendant will self-report upon designation by the Federal Bureau of Prisons.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have fourteen days after being served a copy of this Report and Recommendation to serve and file written objections with the District Judge.

Date: 10/5/2018

A handwritten signature in black ink, reading "Doris L. Pryor", written over a horizontal line.

Doris L. Pryor
United States Magistrate Judge
Southern District of Indiana

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